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Message Text

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16
ORIGIN NASA-04

INFO OCT-01 EUR-25 ISO-00 SCI-06 L-03 EB-11 AGR-20 H-03

ACDA-19 CIAE-00 DODE-00 PM-07 INR-10 NSAE-00 NSC-10

RSC-01 /120 R

66603
DRAFTED BY: NASA G/SHAFER
APPROVED BY: SCI/SAM:WGBASTEDO
EUR/WE:RGALLAGHER (INFO)
L/SCI - MR MAURER
---------- 096946
R 141914Z SEP 73
FM SECSTATE WASHDC
TO AMEMBASSY ROME

UNCLAS STATE 183205

E.O. 11652: N/A
TAGS: TSPA
SUBJECT: PROJECT SIRIO

REF: ROME 9173

1. NASA ADVISES THAT ARTICLE XIII OF SIRIO LAUNCH SERVICES CONTRACT IS A STANDARD US GOVERNMENT CONTRACT CLAUSE BASED ON THE FOLLOWING STATUTORY PROVISION, WHICH IS CODIFIED AS TITLE 41, US CODE, SECTION 22:

2. QUOTE: S22 INTEREST OF MEMBER OF CONGRESS. IN EVERY CONTRACT OR AGREEMENT TO BE MADE OR ENTERED INTO, OR ACCEPTED BY OR ON BEHALF OF THE UNITED STATES, THERE SHALL BE INSERTED AN EXPRESS CONDITION THAT NO MEMBER OF OR DELEGATE TO CONGRESS SHALL BE ADMITTEDTO ANY SHARE OR PART OF SUCH CONTRACT OR AGREEMENT, OR TO ANY BENEFITTO ARISE THEREUPON. NOR SHALL THE PROVISIONS OF THIS SECTION APPLY TO ANY CONTRACTS OR AGREEMENTS HERETOFORE OR HEREAFTER ENTERED INTO UNDER THE AGRICULTURAL ADJUSTMENT ACT, THE FEDERAL FARM LOAN ACT, THE
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EMERGENCY FARMMORTGAGEACT OF 1933, THE FEDERAL FARM

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MORTGAGE CORPORATION ACT,THE FARM CREDIT ACT OF 1933,
AND THE HOME OWNERS' LOAN ACT OF 1933, AND SHALL NOT APPLY
TO CONTRACTS OR AGREEMENTS OF A KIND WHICH THE SECRETARY OF
AGRICULTURE MAY ENTER INTO WITH FARMERS; PROVIDED THAT SUCH
EXEMPTION SHALL BE MADE A MATTER OF PUBLIC RECORD. END QUOTE.

3. RELATED STATUTORY PROVISION IN 18 US CODE 433 EXEMPTS
QUOTE ANY CONTRACT OR AGREEMENT MADE OR ENTERED INTO, OR ACCEPTED BY
ANY INCORPORATED COMPANY FOR THE GENERAL BENEFIT OF SUCH
CORPORATION END QUOTE. STANDARD CLAUSE INCORPORATES THIS
EXEMPTION BY ADDING WORDS FOLLOWING SEMI-COLON IN ARTICLE XIII.

4. EFFECT OF EXEMPTION IS TO MAKE IT PERMISSIBLE FOR US
GOVERNMENT AGENCY TO CONTRACT WITH A CORPORATION, OF WHICH
A MEMBER OF OR DELEGATE TO CONGRESS, OR A RESIDENT COMMISS-
IONER, IS AN OFFICER OR HOLDS SUBSTANTIAL STOCK INTEREST,
WHEREAS SAME CONTRACT COULD NOT BE ENTERED INTO DIRECTLY
WITH SUCH AN INDIVIDUAL, OR WITH A PARTNERSHIP INCLUDING HIM.

5. FYI: EXAMPLE OF DELEGATE TO CONGRESS IS DELEGATE FROM
DISTRICT OF COLUMBIA; EXAMPLE OF RESIDENT COMMISSIONER IS
DELEGATE FROM PUERTO RICO. END FYI.

6. NASA CONCEDES THAT THIS STANDARD CLAUSE HAS NO REAL
RELEVANCE OR APPLICABILITY IN A CONTRACT OF THE NATURE OF
THE SIRIO CONTRACT, BUT CONSIDERS IT MUST OE INCLUDED BECAUSE
OF MANDATORY STATUTORY REQUIREMENT. SAME CLAUSE HAS BEEN
INCLUDED IN ALL LAUNCH SERVICE CONTRACTS ENTERED INTO BY NASA.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 14 SEP 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE183205
Document Source: CORE
Document Unique ID: 00
Drafter: NASA G/SHAFER
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730933/aaaaayex.tel
Line Count: 91
Locator: TEXT ON-LINE
Office: ORIGIN NASA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: ROME 9173
Review Action: RELEASED, APPROVED
Review Authority: smithrj
Review Comment: n/a
Review Content Flags:
Review Date: 10 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10-Oct-2001 by maustmc>; APPROVED <13 MAR 2002 by smithrj>
Review Markings:

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Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PROJECT SIRIO
TAGS: TSPA
To: ROME
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

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